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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,610	08/03/2001	Richard B. Himmelstein	4159-4003US1	7495

7590 05/25/2004
MORGAN & FINNEGAN, L.L.P.
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EXAMINER

BACKER, FIRMIN

ART UNIT PAPER NUMBER

3621

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/921,610

Applicant(s)

HIMMELSTEIN, RICHARD B.

Examiner

Firmin Backer

Art Unit

3621

ML

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 100-104, 107, 108 and 111-133 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 100-104, 107, 108 and 111-133 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

This is in response to an amendment file on April 5th, 2004 for letter for patent filed on August 3rd, 2001. In the amendment, claims 100, 103, 104, 107, 108, 112, 115 and 117 have been amended, claims 28-99, 105, 106, 109 and 110 have been canceled, and claim 119-133 have been added. Claims 100-104, 107, 108 and 111-133 remain pending in the letter.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 100-104, 107, 108 and 111-133 are rejected under 35 U.S.C. 102(e) as being anticipated by Minton (U.S. PG Pub No. 2002/0091611).
3. As per claims 100, 103, 104, 119, 124 and 129 Minton teaches a method for facilitating the bartering of publicly traded securities on a computerized system comprising receiving and communicating on a computerized system a first barter from a user a first security including a quantity thereof to be sold in a barter, a second security including a quantity thereof to be purchased in the barter, and a condition relating to the value of the barter order which condition the barter may be executed (*see figs 4, 6, 7, 8, 9, paragraphs 0007, 009, 0064, 0069*). Minton

further teaches comparing the first security to be sold and the second security to be purchased in the barter a condition relating to the value of the barter and determining a selected barter order which if executed will consummate the first and multiple barter and transmitting an indication that the barter order may be executed and receiving from the user a request to execute the barter order (*see figs 4, 6, 7, 8, 9, paragraphs 0007, 009, 0064, 0069*).

4. As per claims 101, 102, 105, 106, 111-118, 120-123, 125-128 and 130-133, they depend upon claims 100, 103, 104, 119, 124 and 129 and disclosed the same inventive concept. Therefore, they are rejected under the same rationale.

Response to Arguments

5. Applicant's arguments filed April 5th 2004 have been fully considered but they are not persuasive.

a. Applicant argues that the prior art (Minton) fail to teach an inventive concept relating to barter order of the type taught in the disclosure. Examiner respectfully disagrees with Applicant's characterization with the prior art. Examiner seems to be confused as to what type of security the disclosure is related to. The disclosure is unclear as to whether the type of security in the barter for buying and selling are different. Applicant is advised to clearly articulate the type of security in the disclosure in order to differentiate the disclosure with Montion's inventive concept. In any event, Minton teach a data processing system, and a network of data processing systems for allowing

individuals to buy and sell securities directly from other individuals, with only minimal oversight by a broker.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

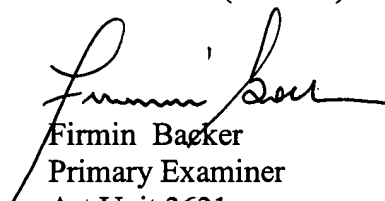
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Firmin Baeker
Primary Examiner
Art Unit 3621

May 24, 2004